



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-838

CERTAIN FOOD WASTE DISPOSERS AND COMPONENTS AND PACKAGING THEREOF

NOTICE OF COMMISSION DETERMINATION NOT TO REVIEW AN INITIAL DETERMINATION GRANTING COMPLAINANT'S MOTIONS TO AMEND THE NOTICE OF INVESTIGATION AND COMPLAINT

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ") initial determination ("ID") (Order No. 5) granting a motion by complainant Emerson Electric Co. of St. Louis, Missouri to amend the Notice of Investigation ("NOI") and complaint to add as respondents Jiangsu Mega Motors ("Mega") of Jiangsu, China and Zhejiang Zhongda Technical Export Co., Ltd. ("Zhongda") of Hangzhou, China.

FOR FURTHER INFORMATION CONTACT: Amanda S. Pitcher, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS)

at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on April 20, 2012, based on a complaint filed by Emerson Electric Co. ("Emerson"), of St. Louis, Missouri, alleging violations of section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337) by reason of (1) infringement of the claim of U.S. Patent No. D535,850; (2) infringement of U.S. Trademark Registration No. 2,518,010 and common law trademarks; (3) unfair competition by passing off; (4) trademark dilution; and (5) trade dress infringement. *77 Fed. Reg. 23751* (Apr. 20, 2012). The Commission's Notice of Investigation named Anaheim Manufacturing Co. ("Anaheim"), of Brea, California, as the only respondent. The Office of Unfair Import Investigations ("OUII") was also named as a party.

On June 7, 2012, Emerson filed a corrected motion to amend the complaint and NOI to add Mega as a respondent. Then on June 28, 2012, Emerson filed a second motion to amend the complaint and NOI to add Zhongda as a respondent. Respondent Anaheim did not oppose the motions. On June 15, 2012 and July 10, 2012, the OUII investigative staff attorney ("IA") filed responses in support of the motions to amend.

On July 17, 2012, the ALJ issued an ID granting Emerson's motions to amend the complaint and NOI to add Mega and Zhongda as respondents. The ALJ found that Emerson made a showing of good cause for the amendments based on new evidence obtained during the course of the investigation. In particular, the ALJ noted that Emerson first learned that Mega was involved in the production and manufacturing of the accused products in interrogatory responses. In addition, the ALJ noted that Emerson first learned that Zhongda was involved in

the distribution, transportation, and importation of the accused products during discovery. The ALJ further found that neither the public interest nor any party would be prejudiced by the amendments. Anaheim filed a petition for review on July 25, 2012, and the IA and Emerson filed replies on August 1, 2012. We note that Anaheim's petition is not proper under the Commission's Rules. 19 C.F.R. § 210.43(a)(2).

The Commission finds no reason to overturn the ALJ's findings, and accordingly, has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in sections 210.43-45 of the Commission's Rules of Practice and Procedure (19 C.F.R. § 210.43-45).

By order of the Commission.

Lisa R. Barton
Acting Secretary to the Commission

Issued: August 16, 2012

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